

November 17, 2004

Caroline Bulger
Hearing Officer
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

RE: Cambridge Electric Light Company, Commonwealth Electric Company, Boston Edison Company, NSTAR Gas Company, d/b/a NSTAR, D.T.E 03 -47-B (Phase II)

Dear Hearing Officer Bulger:

Pursuant to 220 C.M.R §§ 1.04(5) and 1.06(6)(b)(2), the Attorney General moves for enlargement of the procedural schedule ordered by the Department of Telecommunications and Energy ("Department") at the procedural conference to compensate for the late answers to discovery filed by the Cambridge Electric Light Company, Commonwealth Electric Company, Boston Edison Company and NSTAR Gas Company (collectively "NStar" or "Company"). NStar failed to respond to critical discovery questions issued on October 22, 2004, until the end of the day on November 15, 2004. This delay deprived the Attorney General of a meaningful opportunity to evaluate the need for and prepare prefiled testimony by the November 18, 2004, deadline.

Immediately following the procedural conference on October 22, 2004, the Attorney General issued his first set of document and information requests. The discovery included these requests for information important to the Attorney General's prefiled testimony:

AG-1-4 Please provide the workpapers, calculations, formulas, assumptions, and supporting documentation used to allocate the pension assets, liabilities, and costs to NStar's generation, transmission, holding company, and other businesses. Please also provide a five-year history of the dollar amount and the percentage of pension cost allocated.

AG-1-14 Please provide the workpapers, calculations, formulas, assumptions, and supporting documentation used to allocate the

Post-Retirement Benefits Other Than Pension assets, liabilities, and costs to NStar's generation, transmission, holding company, and other businesses. Please also provide a five-year history of the dollar amount and the percentage of Post-Retirement Benefits Other Than Pension cost allocated.

AG 1-4 and 1-14 (Phase II). The Company did not file a response to AG 1-4 until November 15, 2005, far beyond the ten working day response time the Department requires when a procedural schedule is silent as to when a party should file discovery answers. Although the Company provided a response to this request, it did not answer the question to disaggregate the pension assets and liabilities by business segment. *See Fitchburg Gas and Electric Light Company*, D.T.E. 04-48, p. 22 (2004) (requiring disaggregation of data).¹ The Company also refused to answer a similar question last year on the compliance filing. *See* response to Compliance Filing Discovery AG 1-4 (Phase I) (December 17, 2003).

The delay in responding is unacceptable because the Company required a tight procedural schedule. The Company asked for a January 15, 2005, order from the Department on its reconciliation filing and the Department consequently set a short procedural schedule.² The Attorney General must submit prefiled testimony on November 18, 2004. The Company can issue discovery on this testimony by November 22, 2004, and the Attorney General must respond to this discovery by November 26, 2004, the day after the Thanksgiving holiday, with hearings to be conducted on November 29, 2004. Slippage under such an aggressive schedule materially harms the rights of the Attorney General under G. l. c. 30A to examine the Company's case and present evidence.

Had NStar responded to all the discovery on November 5, 2004 -- within the ten working days required by the Department -- the Attorney General would have had an additional ten days to review the materials. As a consequence, the Attorney General requests that all dates in the procedural schedule be rolled back ten days to accommodate the Company's delay.

Sincerely,

Alexander J. Cochis
Assistant Attorney General

¹ Pursuant to 220 C.M.R. § 1.06(4), the Attorney General moves to compel a response to this request, as it provides critical information necessary for the record in this proceeding.

² The Company has failed to provide any documents and other evidence to support NStar's need for an order from the Department in this proceeding by January 15, 2005. *See* AG 1-27 (Phase II). The Attorney General has asked the Company to voluntarily supplement this response with further information to support its request, but the Company has refused.

cc: Service list